

## REMARKS

Claims 1 to 8, 11 to 17, and 19 to 35 are pending in this application. Claims 2 and 15 have been amended and new claims 26 to 35 have been added to more fully claim the invention disclosed. Claims 9, 10 and 18 have been cancelled without prejudice.

### **Claim Rejections- 35 U.S.C. §112, first paragraph**

Claims 9-10, 15-23 and 25 are rejected under 35 U.S.C. 112, first paragraph. The Office Action asserts that there is no reasonable enablement for a compound that inhibits, regulates and/or modulates tyrosine kinase signal transduction generally; or a method of treating or **preventing** a tyrosine-kinase dependent disease or condition generally; or a composition comprising the compound of formula I and a compound selected from the group consisting of estrogen receptor modulator, ...an MMP inhibitor, ...raloxifene (claim 25). The Office Action acknowledges that there is enablement for a composition comprising a compound of formula I; a method of treating cancers of the breast, colon, prostate, and ovary; or a method of treating melanoma or chronic myeloid leukemia (CML).

Claims 9 and 10 have been cancelled without prejudice.

With respect to claim 25, the Office Action asserts that the "second compound" referred to in claim 25 includes therapeutic agents that are known and those that may be discovered in the future, for which there is no enablement. The Office Action continues to assert that the entire scope of the therapeutic activity intended for the compounds of the invention is not enabled. Applicant respectfully disagrees. Claim 25 is directed to a composition comprising formula I and a second compound, whereby the second compound is defined as a specific compound or in terms of its function. Several examples of such compounds are provided at pages 23-26 of the description. Applicant is entitled to such compounds in conjunction with formula I. Applicant provides adequate examples of the second compound and how to make and use the composition claimed.

The Office Action has rejected claims 15-23 as appearing to be "reach-through" claims. The Office Action asserts that the testing assays provided in the specification at page 28 relates to specific cancer cells and that there is no disclosure as to how this data is extrapolated to "prevention" (see pages 4 to 8 of the Office Action). Claim 15 has

been amended to delete the term "prevention", rendering the rejection to "prevention" moot .

The Office Action further asserts that claims 15-23 are drawn to "a method for treating or **preventing** a tyrosine kinase-dependent disease or condition". The Office Action asserts that there is nothing in the disclosure regarding how the data correlates to the diverse disorders of the instant claims. Claim 15 has been amended to now refer to "a method of treating a tyrosine kinase-dependent cancer..." (emphasis added) and claim 19 refers to "a method of treating cancer in a mammal...". Claims 16 to 17 depend from claim 15, claim 18 is cancelled, and claims 21 to 23 depend from claim 19. A Declaration is enclosed showing evidence of enablement for such a method of treating cancer or tyrosine kinase-dependent cancer, in conjunction with the data already provided at pages 28 and 29 of the description.

Claims 1 to 25 are rejected under 35 U.S.C. 112, second paragraph. The Office Action asserts that it is not clear what number range is intended by the definition provided for "n is an integer" in claim 1. Applicant submits that one skilled in the art would understand that the term "integer" would encompass 0 up to, and including, any suitable whole number.

#### **Duplicate Claims**

The Office Action asserts that should claim 1 be found allowable, claims 9 to 10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. As noted above, claims 9 to 10 have been cancelled without prejudice.

The Office Action also asserts that should claim 11 be found allowable, claim 24 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. Applicant respectfully disagrees. Claim 11 is directed to a composition and claim 24 is directed to a process for making the composition. These claims are of different scope.

#### **Information Disclosure Statement**

The Office Action has stated that the Information Disclosure Statement submitted on December 5, 2005 did not include publication dates. A revised Information Disclosure Statement, including the publication dates, is enclosed.

## **CONCLUSION**

In view of the foregoing, reconsideration of the application, withdrawal of the outstanding rejections, allowance of all of the pending claims 1 to 8, 11 to 17, and 19 to 35, and the issuance of a Notice of Allowability are respectfully solicited.

Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. B. Linder', is written over a horizontal line.

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